

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

ANTHONY BOYATT, D/B/A
BOYATT DESIGNS,

Plaintiff,

V.

Civil Action File No.:

2:24-cv-074-RWS

CLAY TO CUSTOM
CONSTRUCTION, LLC, ARNOLD
CLAY SINDLEDECKER, and
CODY DEVIN NUTT,

Defendants.

CODY DEVIN NUTT,

Third-Party Plaintiff,

V.

COMPASS GEORGIA, LLC, and
LAURA ELLEBY,

Third-Party Defendants.

**CONSENT MOTION TO STAY PROCEEDINGS AND COMPEL
MEDIATION**

Plaintiff Anthony Boyatt, d/b/a/ Boyatt Designs (“Boyatt”), Defendants Cody Devin Nutt (“Nutt”), Clay to Custom Construction, LLC (“Clay”), and Arnold Clay Sindledacker (“Sindledacker”), and Third-Party Defendants Compass Georgia, LLC (“Compass”) and Laura Elleby (“Elleby”) (hereinafter referred to collectively as the

“Parties”), by and through undersigned counsel, jointly move the Court to temporarily stay certain proceedings in this matter and compel mediation with a United States Magistrate Judge selected by the Court. This stay is not requested for the purposes of delay.

Boyatt filed its Complaint against Nutt, Clay, and Sindledecker on April 17, 2024, alleging copyright infringement [Doc. #1]. On July 1, 2024, Nutt filed his Answer and Crossclaim against Clay and Sindledecker [Doc. #17]. On July 15, 2024, Nutt filed his Third-Party Complaint against Compass and Elleby [Doc. # 19].

On June 5, 2024, Clay and Sindledecker filed their Motion to Dismiss Plaintiff’s Complaint for Failure to State a Claim [Doc. #9]. On July 22, 2024, Clay and Sindledecker filed their Motion to Dismiss Nutt’s Crossclaims [Doc. #24]. On September 6, 2024, Compass and Elleby filed their Motion to Dismiss Third-Party Complaint for Failure to State a Claim [Doc. # 43]. All three motions are currently pending, with briefing yet to conclude on Compass Elleby’s Motion to Dismiss [Doc. #43].

In order to attempt an early resolution through mediation, the Parties have agreed to temporarily stay all deadlines, including: (i) a Rule 26(f) conference and discovery plan, (ii) filing opposition to Compass and Elleby’s Motion to Dismiss Third-Party Complaint, and (iii) amending counterclaims pursuant to Fed. R. Civ P. 15(a)(1)(B). The stay will not include Rule 26(a)(1)(A) deadlines—the Parties have

agreed – within fourteen (14) days of the date of this consent motion - to exchange Initial Disclosures and to informally exchange other requested information in advance of mediation.

The Parties request that the Court select a United States Magistrate Judge, preferably one with experience in copyright infringement actions. The Parties also request that the Court thereafter notify all parties of the identity of the United States Magistrate who shall mediate this case. Mediation will be scheduled within thirty (30) days of the parties receiving such notice. The Parties will promptly notify the Court of the date mediation is scheduled and notify the Court of the outcome of mediation within seven (7) days of the date of mediation and, should mediation prove unsuccessful, will submit a proposed order lifting the stay. Defendant Cody Nutt will have fourteen (14) days after the stay is lifted to file his opposition to Compass and Elleby's Motion to Dismiss Third-Party Complaint for Failure to State a Claim [Doc. # 43] and twenty-one (21) days after reporting to the Court to amend his Third-Party Complaint against Compass and Elleby.

Accordingly, the Parties hereby jointly move the Court for a temporary stay of the proceedings identified above in this matter and to compel mediation on the terms set forth above. A proposed Consent Order is attached hereto as **Exhibit A**.

Respectfully jointly consented to and submitted this 24th day of September, 2024.

<p><i>Attorneys for Plaintiff Anthony Boyatt:</i></p> <p>By: <u>/s/ Anthony M. Lawhon</u></p> <p>Lawhon Goggin, LLP Anthony M. Lawhon (pro hac vice) Florida Bar No: 965390 3003 Tamiami Trail North Suite 200 Naples, FL 34103 239-325-8956 tonylawhon@lawhon-law.com</p> <p>Buchalter, A.P.C. Jeffrey William Melcher Georgia Bar No: 501180 1 Music Circle South, Suite 300 Nashville, TN 37203 629-224-6606 jmelcher@buchalter.com</p>	<p><i>Attorneys for Clay and Sindlededecker:</i></p> <p>By: <u>/s Xavier T. Romero*</u></p> <p>Flint, Connolly & Walker, LLP Antonino Cammarata, Jr. Georgia Bar No: 375153 Xavier T. Romero Georgia Bar No; 303588 131 East Main Street Canton, GA 30114 770-720-4411 acammarata@fcwlawfirm.com xromero@fcwlawfirm.com</p>
<p><i>Attorneys for Defendant Cody Devin Nutt</i></p> <p>By: <u>/s/ R. Brent Hatcher, Jr.*</u> Smith, Gilliam, Williams & Miles, P.A. R. Brent Hatcher, Jr. Georgia Bar No.: 337375 P.O. Box 1098 Gainesville, GA 30503 770-536-3381 bhatcher@sgwmfirm.com</p> <p>Baker Hostetler LLP S. Derek Bauer Georgia Bar No.: 042537 Theresa M. Weisenberger Georgia Bar No: 286964</p>	<p><i>Attorneys for Third Party Defendants Compass and Elleby:</i></p> <p>By: <u>/s/ Travis A. Knobbe*</u></p> <p>Freeman Mathis & Gary, LLP Travis A. Knobbe Georgia Bar No. 763132 Anna C. Perry Georgia Bar No: 306362 100 Galleria Parkway Suite 1600 Atlanta, GA 30339 850-387-6725 Travis.Knobbe@fmglaw.com acperry@fmglaw.com</p>

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*** Signed with express permission by Anthony M. Lawhon**

CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing pleading has been prepared using Times New Roman, 14 point font.

LAWHON GOGGIN, LLP

By: /s/ Anthony M. Lawhon

Anthony M. Lawhon

Florida Bar No.: 965390

Admitted Pro Hac Vice

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Third-Party Defendants.

CERTIFICATE OF SERVICE

The undersigned counsel for Plaintiff Anthony Boyatt in the within-entitled cause hereby certifies that a copy of the foregoing *Consent Motion to Stay Proceedings and Compel Mediation* was this day served by electronic mail through the Court's CM/ECF filing system to the following counsel of record:

<i>Attorneys for Defendant Cody Nutt:</i> Smith, Gilliam, Williams & Miles, P.A. R. Brent Hatcher, Jr. Georgia Bar No.: 337375 P.O. Box 1098 Gainesville, GA 30503 770-536-3381 bhatcher@sgwmfirm.com	<i>Attorneys for Clay and Sindlededecker:</i> Flint, Connolly & Walker, LLP Anthony Cammarata, Jr. Xavier T. Romero acammarata@fcwlawfirm.com xromero@fcwlawfirm.com
<i>Attorneys for Third Party Defendants Compass and Elleby:</i> Freeman Mathis & Gary, LLP Travis A. Knobbe Anna C. Perry Travis.Knobbe@fmglaw.com acperry@fmglaw.com	

This 24th day of September 2024.

LAWHON GOGGIN, LLP

By: /s/ Anthony M. Lawhon

Anthony M. Lawhon

Florida Bar No.: 965390

Admitted Pro Hac Vice

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
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ANTHONY BOYATT, D/B/A BOYATT)
DESIGNS,)

Plaintiff,)

v.)

CLAY TO CUSTOM)
CONSTRUCTION, LLC, ARNOLD)
CLAY SINDLEDECKER, and CODY)
DEVIN NUTT,)

Defendants.)

Civil Action File No.:
2:24-cv-074-RWS

CODY DEVIN NUTT,)

Third-Party Plaintiff,)

v.)

COMPASS GEORGIA, LLC, and)
LAURA ELLEBY,)

Third-Party Defendants.)

**ORDER GRANTING CONSENT MOTION TO STAY PROCEEDINGS AND
COMPEL MEDIATION**

The Court, upon the consent of the Parties and for good cause shown, hereby GRANTS the Parties' Consent Motion to Stay Proceedings and Compel Mediation. The Court **ORDERS** that the current deadlines in the above-styled action are



STAYED pending mediation, including deadlines for a Rule 26(f) conference and discovery plan, opposition to Compass and Elleby's Motion to Dismiss Third-Party Complaint, and amending counterclaims pursuant to Fed. R. Civ P. 15(a)(1)(B).

The Court also **ORDERS** the parties to exchange Rule 26(a)(1)(A) disclosures, and any other documentation the parties agree to exchange, within fourteen (14) days of the date of the consent Motion.

The Court further **ORDERS** the Parties to conduct mediation within thirty (30) days after the Court notifies all parties of the United States Magistrate Judge who is appointed to conduct the parties' mediation. The Parties will promptly notify the Court of the scheduling of the mediation, and the outcome of mediation within seven (7) days of the date of mediation and, should mediation prove unsuccessful, will submit a proposed order lifting the stay.

If mediation is unsuccessful, Defendant Cody Nutt will have fourteen (14) days after the stay is lifted to file his opposition to Compass and Elleby's Motion to Dismiss Third-Party Complaint for Failure to State a Claim [Doc. # 43] and twenty-one (21) days after reporting to the Court to amend his Third-Party Complaint [Doc. #19] against Compass and Elleby.

SO ORDERED, this _____ day of September, 2024.

RICHARD W. STORY
United States District Judge

Proposed Order Prepared By:
Smith, Gilliam, Williams & Miles, P.A.
R. Brent Hatcher, Jr.
Georgia Bar No.: 337375